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Administration of Estates; Summary Probate Proceedings

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4. Ch. 551 §1 (amending NRS 150.060(1)).
5. Id. (amending NRS 150.060(1), (5)).
6. Id. §1 (amending NRS 150.060(1)).
7. Id. §1 (adding NRS 150.060(1)(a)).
8. Id. §1 (adding NRS 150.060(1)(b)).
9. Id. §1 (adding NRS 150.060(1)(d)).
10. §1 (adding NRS 150.060(1)(e)). Compare Ch. 551 §1 (amending NRS 150.060) with 9th JUD. DIST. CT. OF NEV. R. 17.

ADMINISTRATION OF ESTATES; SUMMARY PROBATE PROCEEDINGS

Amends NRS 146.080

SB 352 (Ashworth); STATS 1979, Ch 322

NRS 146.080 provides for transfer of estate assets without probate or administration, where (i) the total value of assets located within Nevada is \$5,000 or less, excepting amounts due decedent for service in U.S. Armed Forces, and (ii) the estate contains no interest in real property or lien on real property in Nevada. Prior to amendment, NRS 146.080 simply required the person entitled to receive these assets to present, to the custodian of the assets, an affidavit of the affiant's right to the property.¹ Chapter 322 specifies informational requirements of these affidavits² and clarifies who may and who must rely on these affidavits.³

NRS 146.080 now requires that, in order for a decedent's relative to receive the estate's property without administration, he must submit an affidavit which contains statements of the affiant's name and address and that he is entitled by law to receive the property;⁴ a description of the decedent's property and the property claimed;⁵ that the decedent was a Nevada resident at the time of death;⁶ that the property in Nevada does not exceed \$5,000 in value, and includes no interest in real property nor lien upon real property;⁷ that forty days have elapsed since the death of the decedent;⁸ that the affiant is entitled to delivery or full payment of the claimed property;⁹ that no appointment of a personal representative has been made and that no application for such an appointment is pending;¹⁰ that all debts of the decedent including funeral and burial expenses have been paid or provided for;¹¹ and that ten days have elapsed since written notice of affiant's claim was delivered by personal service or by certified mail to every successor whose right to succeed is equal or superior to that of the affiant.¹²

An affiant's failure to give proper notice results in the affiant holding all the estate property in trust for all other successors with an interest in the property.¹³

Chapter 322 resolves the question of susceptibility of transferred assets to debts incurred by the decedent, an issue not previously addressed in Nevada case law.¹⁴ Not only is the affiant required to aver that all the decedent's debts have been paid,¹⁵ but any deviation from affidavit requirements or the inclusion of any statements which are not absolutely true make the assets received by the affiant subject to any outstanding debts of the decedent.¹⁶

Upon receipt of an affidavit and proof of the decedent's death, transfer agents within the state must change the registered ownership of any security claimed by the affiant.¹⁷ Similarly, government agencies which issue certificates of ownership or registration of personal property must also issue the affiant new certificates of ownership or registration.¹⁸

Any other person receiving an NRS 146.080 affidavit may rely on the information contained within it without fear of civil liability for his actions based on his good faith reliance.¹⁹

If the property is located in a state requiring a court order for the transfer of the property, or consists of stocks or bonds which must be transferred by an out of state agent, the person desiring a transfer may obtain the appropriate court order through a simplified procedure. He need simply file in a court of competent jurisdiction a verified petition containing a description of all the property of the decedent,²⁰ an estimate of its value,²¹ a list of all encumbrances of record at the time of death,²² the names, ages, and residences of the decedent's heirs and legatees,²³ and a prayer to the court for issuance of the order.²⁴ The court may issue the order upon finding that the gross value of the estate does not exceed \$5,000, and that the person requesting the transfer is entitled to it.²⁵

Wesley Kumagai

FOOTNOTES

1. 1975 Nev. Stats. ch. 751 §21, at 1773 (NRS 146.080(1)) (amended by 1979 Nev. Stats. ch. 322 (hereinafter "Ch. 322") §1).

2. Ch. 322 §1 (adding NRS 146.080(2)).
3. Id. (adding NRS 146.080(4) and (5)).
4. Id. (adding NRS 146.080(2)(a)).
5. Id. (adding NRS 146.080(2)(g)).
6. Id. (adding NRS 146.080(2)(b)).
7. Id. (adding NRS 146.080(2)(c)).
8. Id. (adding NRS 146.080(2)(d)).
9. Id. (adding NRS 146.080(2)(i)).
10. Id. (adding NRS 146.080(2)(e)). See also Uniform Probate Code 3-120(a)(3).
11. Ch. 322 §1 (adding NRS 146.080(2)(f)).
12. Id. (adding NRS 146.080(2)(h)).
13. Id. (adding NRS 146.080(3)(b)).
14. See Donato v. Mason, 117 N.J. Super. 1, 283 A.2d 348 (1940) (under a similar statute, an affiant's taking of estate assets in derogation of a claim for the decedent's burial expenses was held wrongful).
15. Ch. 322 §1 (adding NRS 146.080(2)(f)).
16. Id. §1 (adding NRS 146.080(3)(a)).
17. Id. §1 (adding NRS 146.080(5)(a)).
18. Id. §1 (adding NRS 146.080(5)(b)).
19. Id. §1 (adding NRS 146.080(4)).
20. Id. §1 (adding NRS 146.080(6)(a)).
21. Id. §1 (adding NRS 146.080(6)(c)).
22. Id. §1 (adding NRS 146.080(6)(b)).
23. Id. §1 (adding NRS 146.080(6)(d)).
24. Id. §1 (adding NRS 146.080(6)(e)).
25. Id. §1 (adding NRS 146.080(6)).

ADMINISTRATION OF ESTATES: GUARDIANSHIPS

Adds to NRS Chapters 17 and 159

Amends NRS 41.470, 159.050, 159.113, 159.115, 159.117, 159.125, 159.127, 159.169

Repeals NRS 159.129 to 159.115, inclusive

SB 89 (Close, Wilson and Raggio); STATS 1979, Ch 277

SB 379 (Committee on Judiciary); STATS 1979, Ch 431

SB 395 (Ashworth); STATS 1979, Ch 355